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Attorney Docket No. 206,973

IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

Applicant: **JARALLA**

Serial No.: **10/533,490**

Filed: **April 28, 2005**

Title: **CORROSION TESTING APPARATUS**

Examiner: **Rogers, David A.**

Group Art Unit: **2856**

STATEMENT OF FILING BY EXPRESS MAIL UNDER 37 C.F.R. § 1.10

This correspondence is being deposited with the United States Postal Service on January 14, 2008 in an envelope as "Express Mail Post Office to Addressee," Mailing Label Number EB908951810US addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

APPLICATION FOR PATENT TERM ADJUSTMENT

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Date: January 14, 2008

Sir:

Pursuant to 37 C.F.R. § 1.705(d), we respectfully move for reconsideration of the 154-day Patent Term Adjustment granted in the Issue Notification of January 2, 2008.

We believe that the correct patent term adjustment should be 262 days.

On October 2, 2006, the Office mailed a Notice of Allowance, with the issue fee due on January 2, 2007. We deposited the issue fee with the U.S. Postal Service, using the "Express Mail Post Office to Addressee" service, on January 3, 2007. This was a timely payment, as the Office was closed on January 2, 2007 in recognition of the National Day of Mourning for the passing of President Gerald R. Ford. The Express Mail label was ER059677689US, and was

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01/18/2008 SSANDAR1 00000008 010035 10533490

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date-stamped January 3, 2007. Despite this, the USPTO mailroom stamped our postcard receipt January 4, 2007.

On January 15, 2007, in recognition of the fact that a January 4, 2007 date would result in the abandonment of the application, we submitted a petition under 37 C.F.R. § 1.10(c) to correct the mail date of our payment of the issue fee, providing a photocopy of the Express Mail label.

On March 12, 2007, the Office denied our petition, on the basis: (1) that the Office believed the photocopy of the Express Mail label to be illegible, and (2) that the due date was January 2, 2007, and that our claimed date of January 3, 2007 would be too late to avoid abandonment.

On March 19, 2007, we requested reconsideration, submitting a darker photocopy of the Express Mail label, so as to demonstrate that we mailed the fee on January 3, 2007. We explained that date was acceptable, as the Office had been closed on January 2, 2007 for the National Day of Mourning.

On June 7, 2007, the Office denied our petition, on the basis that there was no showing that the Formal Drawings were deposited as Express Mail with the U.S. Postal Service on January 3, 2007.

On July 10, 2007, we requested reconsideration at a higher level, providing a copy of the postcard receipt, which clearly stated that there was submitted therewith: “(3) Sub. of Formal Drawings (4 pgs.).”

On December 7, 2007, the Office vacated the Notice of Abandonment.

On January 2, 2008, the Office mailed an Issue Notification, setting a date of issue of January 22, 2008.

35 U.S.C. § 154(b)(1)(A)(iv) provides a patent term guarantee, whereby the Office will “issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified . . . until the action described . . . is taken.” The issue fee was paid on January 3, 2007, with all outstanding requirements being satisfied on that day (including the submission of the formal drawings). Four months after that date was May 3, 2007, a Saturday, so it would have been timely if the Office had issued the patent by Monday, May 5, 2007. A total of 262 days will pass between May 5, 2007 and the actual issue date of January 22, 2008.

Therefore, we respectfully move for reconsideration of the 154-day Patent Term Adjustment granted in the Issue Notification of January 2, 2008, and request that this be corrected to 262 days.

The Commissioner is hereby authorized to charge the \$200 Petition fee, as well as any other fees which may be incurred by this paper, to our Deposit Account No. 01-0035.

Respectfully submitted,  
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